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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,
HEARTWOOD, OHIO ENVIRONMENTAL
COUNCIL, SIERRA CLUB

Plaintiffs,

vs.

U.S. FOREST SERVICE, ET AL.

Defendants;

AMERICAN PETROLEUM INSTITUTE, ET
AL.

Intervenor Defendants.

Civ. No. 2:17-cv-372

Judge Watson

Magistrate Judge Jolson

**JOINT MOTION TO AMEND CASE
MANAGEMENT PLAN**

1 Pursuant to Local Civil Rule 7.2, the Parties respectfully move to amend the Case
2 Management Plan approved by the Court on January 12, 2018 (Dkt. No. 56), and amended on
3 November 9, 2018 (Dkt. No. 82), to modify the remaining dates in the summary judgment
4 briefing schedule. Good cause exists for the requested schedule amendments:
5

6 1. At the end of the day on December 21, 2018, the appropriations act that had been
7 funding the Department of Justice expired and appropriations to the Department lapsed. The
8 same is true for several other Executive agencies, including the United States Department of the
9 Interior and the United States Department of Agriculture, federal defendants in this case.
10 Absent an appropriation, Department of Justice attorneys and employees of the federal
11 defendants were prohibited from working, even on a voluntary basis, except in very limited
12 circumstances, including “emergencies involving the safety of human life or the protection of
13 property.” 31 U.S.C. § 1342.
14

15 2. In response to the lapse of congressional appropriations, on December 26, 2018,
16 the Southern District of Ohio issued General Order 18-02 (“General Order Holding in Abeyance
17 Civil Matters Involving the United States as a Party”), which stayed all civil litigation involving
18 the United States for a period of fourteen days. This General Order was extended on January 9,
19 2019, and again on January 23, 2019.
20

21 3. General Order 18-02 states that “[t]he Court shall clarify the status of case
22 schedules upon expiration of the stay and dependent on the timing of the funding resolution.”
23

24 4. Appropriations were restored, effective January 25, 2019, and Department of
25 Justice attorneys, as well as employees of the federal defendants, assigned to this matter
26 returned to work on January 28, 2019.
27
28

1 5. Having conferred on how to revise the current summary judgment briefing
2 schedule to account for the 35-day lapse in appropriations, the Parties now jointly propose the
3 following revisions to the remaining dates in the summary judgment briefing schedule:

- 4 • Federal Defendants shall file their cross-motion for summary judgment/opposition to
5 Plaintiffs' motion for summary judgment on or before **February 21, 2019**;
- 6 • Intervenor Defendants shall file their cross-motion for summary judgment/opposition
7 to Plaintiffs' motion for summary judgment on or before **February 28, 2019**;
- 8 • Plaintiffs shall file their reply in support of their motion for summary
9 judgment/opposition to Federal Defendants' and Intervenor Defendants' cross-
10 motions for summary judgment on or before **March 28, 2019**;
- 11 • Federal Defendants shall file their reply in support of their cross-motion for summary
12 judgment on or before **April 25, 2019**;
- 13 • Intervenor Defendants shall file their reply in support of their cross-motions for
14 summary judgment on or before **May 2, 2019**;
- 15 • As ordered by the Court on December 31, 2018 (Dkt. No. 86), oppositions to
16 Plaintiffs' Motion to Take Judicial Notice (Dkt. No. 84) shall be due concurrently
17 with the Defendants and Defendant-Intervenors' respective deadlines for their cross-
18 motions for summary judgment, and any reply shall be due concurrently with
19 Plaintiffs' reply in support of their motion for summary judgment. Accordingly,
20 those deadlines shall be extended to the respective dates set forth above.
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25 6. All page limits approved in the Court's November 9, 2018 order remain the same.

26 7. A proposed order setting out these proposed modifications accompanies this joint
27 motion.
28

1 DATED: January 30, 2019

Respectfully submitted,

2 /s/Wendy S. Park (per authorization) _____

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CERTIFICATE OF SERVICE

I certify that on January 30, 2019, I filed the foregoing Joint Motion to Amend Case Management Plan, and the attached Proposed Order using the Court's ECF system, which will provide service to all counsel of record.

DATED: January 30, 2019

/s/ Bridget K. McNeil
BRIDGET KENNEDY McNEIL
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